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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,762	11/27/2001	Shinsuke Takahashi	Q67342	7568

7590 05/08/2003

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

COHEN, AMY R

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/993,762

Applicant(s)

TAKAHASHI, SHINSUKE

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 10 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leckey et al. (U. S. Patent No. 3,427,723) in view of Moore.

Leckey et al. discloses a peripheral surface shape measuring apparatus (Figs. 6 and 7) of a roll-like object which measures a peripheral surface shape of a roll-like object, comprising: a displacement amount measuring device (Figs. 6 and 7) which has a pinching device (60) including two arms (76, 78) connected together at first end portions (Fig. 7) that pinch the roll-like object in a diameter direction of the roll-like object with a sensor part (86) and a reference point part (84) arranged opposite each other, and which measures a displacement amount when the sensor part is relatively displaced in the diameter direction with respect to the reference point part (Col 6, lines 21-40); and a moving device (90, 92, and 94) which moves the displacement amount measuring device from one end side of the roll-like object to another end side of the roll-like object in an axial direction of the roll-like object (Col 6, lines 45-55), wherein the peripheral surface shape of the roll-like object is measured on the basis of the displacement amount of the sensor part accompanied by movement of the displacement amount measuring device (Col 6, lines 56-75).

Leckey et al. discloses the peripheral surface shape measuring apparatus of a roll-like object comprising a guiding device (64, 90, 92, and 94) which makes is easy for the displacement amount measuring device to move in parallel to a central axis of the roll-like object (Col 1, lines 34-47 and Col 5, line 68-Col 6, line 11).

Leckey et al. discloses the peripheral surface shape measuring apparatus of a roll-like object wherein the sensor part and the reference point part are shaped like bars which are perpendicular to an axial direct of the roll-like object and are in parallel to each other (Fig. 7

Leckey et al. does not disclose s displacement amount moving device wherein the two arms are connected at first ends with a hinge.

Moore discloses a peripheral surface shape measuring apparatus (50) of a roll-like object which measures a peripheral surface shape of a roll-like object, comprising: a displacement amount measuring device (50) which has a pinching device including two arms (12, 14) connected together at first end portions with a hinge (16) and that pinch the roll-like object in a diameter direction of the roll-like object (Figs. 3A,B) with a sensor part (72) and a reference point part (74) arranged opposite to each other in second end portions (71, 73) of the two arms, and which measures a displacement amount when the sensor part is relatively displaced in the diameter direction with respect to the reference point part (Col 9, lines 11-68); and a moving device (70), wherein the peripheral surface shape of the roll-like object is measured on the basis of the displacement amount of the sensor part accompanied by movement of the displacement amount measuring device (Col 10, line 23-Col 11, line 9 and Fig. 5D).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the peripheral surface shape measuring apparatus of Leckey et al. to replace

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the connection of the first ends of the two arms with a hinge, as taught by Moore, so that objects of various diameters would easily be measured (Moore, Col 2, lines 25-52).

Regarding accuracy of the diameter measurement: Leckey et al. and Moore disclose a peripheral surface shape apparatus but does not disclose a particular value for this parameter. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a measurement device with an accuracy of $\pm 5\text{mm}$, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range" involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

3. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC
May 6, 2003



Diego Gutierrez
Supervisory Examiner
Tech Center 2800